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CrI.O.P.No.5762 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.5762 of 2023

V.Manoharan

... Petitioner

Vs.

The State Represented by,
The Station House Officer,
CBCID Police Station,
Puducherry - 605 013.

(Crime No.23 of 2022)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioner on bail, in connection with the Crime No.23 of 2022, pending investigation on the file of the respondent Police.

For Petitioner : Mr.M.R.Thangavel

For Respondent : Mr.K.S.Mohandas
Public Prosecutor (Puducherry)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.02.2023, for the offences punishable under Sections 420, 465, 468, 471 read with Section 34 of IPC, in Crime No.23 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant, the Secretary, Sri Kamatchi Amman Temple Devasthanam, No.60, Bharathi Street, Puducherry-1 is that the land in R.S.No.292/4 and R.S.No.291/5 in Cadastre No.156, Pymash No.285 to an extent of 00.31.60 Hec. and 00.29.20 Hec. belongs to Sri Kamatchi Amman Koil Trust and that the petitioner/accused along with other accused and revenue officials by tampering of revenue records and fabrication of documents had grabbed the Temple property to an extent of 00.29.20 Hec. Hence, the case.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is the Managing Trustee of M/s.Sabari Educational Society and



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they are running a Nursing College and Teacher Training College. He would further submit that A1-Rathinavel, who is the owner of the property, based on Possession Certificate and Patta issued by the Revenue Department had settled the land in favour of A2-Mohanasundari, his wife, who in turn had settled the same in favour of the said M/s.Sabari Educational Society and the petitioner was in possession of the land from the year 2011 and that the officials after due verification of revenue records had permitted the petitioner to start an Educational Institution in that land. Meanwhile, Sri Kamatchi Amman Devasthanam, represented by its Secretary/Trustee Mr.Subramanian, had filed a proceedings in S.P.No.5080/DOS/ST-1/23(1)2016, seeking for correction of entries in revenue records in respect of the land located in R.S.No.291/5 and R.S.No.292/4 of No.38-Saram Revenue Village under Section 23(1) of the Puducherry Settlement Act, 1970 and the petition came to be dismissed on 26.08.2019 and the Trustee had also preferred an appeal in A.No.21 of 2019 before the Director of Survey and Settlement Records, Puducherry and the appeal was also dismissed by the Appellate Authority on 23.06.2021. In the Appellate Order, it has been held that the Trustee of the Temple has not even filed a single scrap of document to show that he has complied with the conditions to become absolute owner of the property.



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Meanwhile, pending the revenue proceedings, the Trustee had preferred a complaint on 23.10.2019 and a case came to be registered in Crime No.23 of 2022 and the petitioner was arrested on 02.02.2023. He would further submit that the major part of the investigation is over and the petitioner is in Judicial Custody from 02.02.2023 (for a period of 40 days) and that the entire case of the prosecution is borne out by the records.

4. Mr.K.S.Mohandas, learned Public Prosecutor (Puducherry) appearing for the respondent would submit that it is the case where the alleged petitioner along with the other accused and officials in the Revenue Department had fabricated the documents and by tampering with revenue records and making wrong entries in the revenue records had grabbed the properties worth about several crores belonging to Sri Kamatchi Amman Temple. He would further submit that A1 and A2 have no rights on the property the they have along with A4-Village Administrative Officer have fabricated the Possession Certificate and Patta based on which, A2 has settled the property in favour of the petitioner/A3. He would further submit that A2 has no relationship with the trust/trustee and she has settled the property in favour of the trust which is illegal. Based on the same, the



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accused and the Trust have grabbed the property and they have started an Educational Institution, later closed the same and sold the valuable lands to third parties. It is the large scale scam/fraud, where, the property belonging to Sri Kamatchi Amman Temple and has been usurped by the persons/criminals with the nexus of officials and the investigation is still pending. He would further submit that if the bail is granted to the petitioner, there is every chance of him getting absconded and interfering with investigation and it would be difficult to commit the case/complete the investigation. He would further submit that the petitioner has previous case of similar nature registered against him. Therefore, he vehemently opposed to grant bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner submitted that the the petitioner is ready and willing to furnish solvent sureties and to abide by any stringent condition that may be imposed on him and the petitioner is also ready to stay far away from the jurisdiction of the respondent police. Hence, he prays for grant of bail to the petitioner.



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6. Heard both sides and perused the materials available on record including the First Information Report.

7. Taking into consideration the facts and circumstances of the case, the submissions made by Counsel on either side and taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Chief Judicial Magistrate, Puducherry**, and on further conditions that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall stay at Yanam and report before the Inspector of Police/Station House



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**Officer, Yanam Town Police Station, Puducherry,
everyday at 10.30 a.m., until further orders;**

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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A.D.JAGADISH CHANDIRA, J.

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To

1. The learned Chief Judicial Magistrate,
Puducherry.
2. The Station House Officer,
CBCID Police Station,
Puducherry - 605 013.
3. The Puducherry Central Prison,
Kalapet, Puducherry - 605 014.
4. The Public Prosecutor,
High Court of Madras.

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